

21 C.J.S. Courts § 326

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Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.


X. Clerks of Courts

A. Nature of Office, Appointment, Qualification, and Tenure

§ 326. Appointment or election

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  ³

In the absence of anything to the contrary in the constitution, the subject of appointment or election of court clerks may properly be regulated by the legislature.

In the absence of anything to the contrary in the constitution, the subject of appointment or election of court clerks may properly be regulated by the legislature,¹ and the nomination and election of a municipal court clerk may be governed by city charter.² Where, however, the constitution itself provides the method by which the clerk is to enter into office, the constitution governs, and a statute attempting to provide a different method is void.³

Where, under the law, the office of court clerk is to be filled by election, the judge of the court has no authority to fill the office by appointment.⁴ A court clerk who is elected by the voters is nevertheless completely subject to control of the chief judge of the court.⁵

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Footnotes

¹ Tenn.—[Hodge v. State](#), 135 Tenn. 525, 188 S.W. 203 (1916).

Time for election

S.C.—[Cannon v. Sligh](#), 170 S.C. 45, 169 S.E. 712 (1933).

- 2 Ohio—*State ex rel. Froelich v. Montgomery County Bd. of Elections*, 65 Ohio App. 2d 23, 19 Ohio Op. 3d 15, 413 N.E.2d 854 (2d Dist. Montgomery County 1979).
- 3 Minn.—*State v. Berg*, 132 Minn. 426, 157 N.W. 652 (1916).
- 4 Okla.—*Matney v. King*, 1908 OK 1, 20 Okla. 22, 93 P. 737 (1908).
- 5 W. Va.—*State ex rel. Core v. Merrifield*, 202 W. Va. 100, 502 S.E.2d 197 (1998).
- As to the court's control of the clerk, generally, see § 336.

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